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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/247,209	02/09/1999	PAUL PAZANDAK	044557.0000	7376

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EXAMINER

FEILD, JOSEPH H

ART UNIT

PAPER NUMBER

2176

DATE MAILED: 02/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/247,209

Applicant(s)

PAZANDAK, PAUL

Examiner

JOSEPH H FEILD

Art Unit

2176

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 December 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) 1,2 and 4-10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. This office action is responsive to the Request for Reconsideration, filed 8/5/02 (paper # 9) and to the Election, filed 12/2/02, in which applicant elected group III (claim 3) without traverse. Claims 1-2 and 4-10 are withdrawn from consideration.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claim 3 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 3 is directed toward a "method of parsing an XML document" which appears to be a computer program per se. The steps of "acquiring", "associating", "calling", and "creating a type specific object" appear to constitute computer program steps per se. These steps are not specifically being claimed in such a way as to make it clear that the steps are being carried out in a computer-controlled environment. Thus the claim fails to define any structural or functional interrelationships between the computer program and other claimed aspects of the invention which permit the computer program's functionality to be realized. Furthermore, even if it could be argued that the claim is not directed toward a computer program per se, the claimed invention fails to perform independent physical acts (post-computer process activity) or manipulate data representing physical objects or activities to achieve a practical application (pre-computer process activity). In other words, the claimed invention essentially manipulates an abstract idea. The examiner is not

alleging that parsing a document has no practical application, but rather, that no practical application is being claimed.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

“creating a type specific object from the XML document *because of the code*” is vague and indefinite. The cause/effect relationship here is unclear.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Davidson et al (6,083,276).

Davidson discloses:

“parsing an XML document”. See Davidson’s abstract, in which he discloses *creating a parse tree from an application description file*. At figure 2 (204), Davidson discloses an *XML Parse Tree*.

“acquiring the XML document”. Refer to Davidson’s figure 2 (202), in which he discloses an *application description file*. At column 6 (lines 45-49), Davidson discloses, *Preferably, the ADF 202 is an XML-compliant text document that defines a component-based application using a descriptive attribute grammar*.

“associating the XML document with a call”, “calling a code”, and “creating a type specific object from the XML document because of the code”. Refer to Davidson’s abstract, in which he discloses, *transforming the parse tree into a plurality of components corresponding to instances of classes in an application framework, and initializing and further processing the components to launch the component-based application*. Thus, while Davidson does not explicitly employ the language “associating . . . with a call”, “calling a code”, and creating a type specific object . . . because of the code”, it would have been obvious to one of ordinary skill in the art at the time of the invention to “associate the XML document with a call”, “call a code” and “create a type specific object from the XML object because of the code” because Davidson’s transformation of the parse tree into components *corresponding to instances of classes* in an application framework would implies a correspondence between the components and the instances. Using a call and “calling a code” would have been obvious to one of ordinary skill in the art as a well known way of accessing the corresponding components. Here it is noted that in Applicant’s response filed on 8/13/02 (Request for

Reconsideration, paper #9), at page 2 (top), Applicant argued: "Applicant uses the term 'type-specific object' in the claims to mean an instance of a class". In accordance with this definition, the Examiner contends that Davidson properly teaches "type specific object".

Response to Arguments

8. Applicant's arguments with respect to claim 3 have been considered but are moot in view of the new ground(s) of rejection.

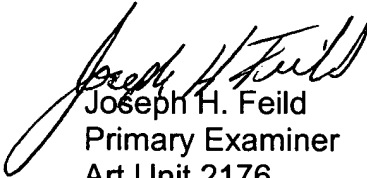
Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOSEPH H FEILD whose telephone number is (703) 305-9792. The examiner can normally be reached on Monday-Friday from 8:30 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, HEATHER HERNDON, can be reached on (703) 308-5186. The fax phone numbers for the organization where this application or proceeding is assigned are:

(703) 746-7238	(After Final Communication)
(703) 746-7239	(Official Communication)
(703) 746-7240	(Status Inquiries, Draft Communication).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.


Joseph H. Feild
Primary Examiner
Art Unit 2176
February 14, 2003